

August 9, 2007

Mr. Ched MacQuigg
828 Madeira Drive, SE
Albuquerque, New Mexico 87108

RE: Inspection of Public Records Complaint - Chad MacQuigg

Dear Mr. MacQuigg:

We have completed our investigation into your complaint alleging that the Albuquerque Public Schools ("APS") failed to properly respond to your requests under the Inspection of Public Records Act ("IPRA" or "Act"), NMSA 1978, §§ 14-2-1 through 14-2-12 (1947, as amended through 2005). We have reviewed your complaint, APS' May 23, 2007 response, its attachments, and the IPRA. We have concluded that APS complied with the IPRA.

Pursuant to our usual procedures, we sent an inquiry letter and a copy of your complaint to Mr. Rigo Chavez, custodian of records at APS. In his response, Mr. Chavez stated that, on April 12, 2007, he replied to your request dated April 11, 2007 for complaints filed with APS' Equal Opportunity Office against Gil Lovato. Your request for that information was properly denied under Section 14-2-1(A)(3) of the IPRA, which protects "letters or memorandums [sic] which are matters of opinion in personnel files ..." New Mexico courts have broadly interpreted that exception to include records such as complaints against public employees. See State ex rel. Newsome v. Alarid, 90 N.M. 790, 795, 568 P.2d 1236 (1977). The written denial otherwise complied with § 14-2-11(B) of the Act, as it(1) described the records sought; (2) set forth the name and title of the person responsible for the denial; and (3) was mailed to you within fifteen days after the request for inspection was received.

On April 25, 2007, Mr. Chavez replied to your April 19, 2007 request. Mr. Chavez again denied the requests for complaints filed against Gil Lovato with the APS Equal Opportunity Services Office as the complaints were confidential; explained other requests were for records he did not have; and made some records available for inspection. Mr. Chavez invited you to contact him to schedule a time for inspection,

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which you had not yet done at the time of APS' May 23 response. This reply was also in compliance with the IPRA.

Although we do not find a violation of the Inspection of Public Records Act in this instance, we appreciate your bringing this matter to our attention. If you have any questions about our conclusions or about the IPRA in general, do not hesitate to contact us.

Sincerely yours,

Mona Valicenti
Assistant Attorney General

cc. Elizabeth Glenn, AAG, Director Civil Division
Rigo Chavez, Custodian of Records, Albuquerque Public Schools